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FISCAL IMPACT STATEMENT

LS 6426

BILL NUMBER: HB 1271

NOTE PREPARED: Feb 26, 2008

BILL AMENDED: Feb 26, 2008

SUBJECT: Inmate Credit Time.

FIRST AUTHOR: Rep. Stemler

FIRST SPONSOR: Sen. Sipes

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Credit Time for High School and GED* – It prohibits an offender from earning credit time for a high school diploma if the offender has previously obtained a general educational development (GED) diploma. It prohibits an offender from earning credit time for a GED diploma if the offender has previously obtained a high school diploma.
- B. *Credit Class IV* – It creates Department of Correction Credit Class IV for felons convicted of certain serious child molesting offenses and certain murders involving sex offenses. It specifies that persons in Credit Class IV earn one day of credit for each six days of incarceration. It provides that persons in Credit Class IV may be placed in a credit class where they earn no credit, but may not be placed in a Credit Class where they earn more credit.

Effective Date: July 1, 2008.

Explanation of State Expenditures: *Credit Time for a High School Diploma* – This provision would have a minimum effect on the offender population in Department of Correction (DOC) facilities since it has been DOC's policy since 2005 to not permit offenders to receive earned credit time for completing both a GED and a high school diploma.

LSA identified 23 offenders who completed both a GED and a high school diploma who were in DOC custody on October 22, 2007. Offenders who completed both prior to August 19, 2005, may have received additional credit for both a GED and a high school diploma. Since 2005, no offender has received credit for

both the GED and a high school diploma.

Each of these 23 offenders, according to DOC records, earned a GED first and the high school diploma at a later time. Consequently, each have earned a potential added time cut of up to 12 months. Under current law, offenders can receive a time cut of six months for completing a GED and 12 months for completing a high school diploma.

[DOC has had an executive directive since August 19, 2005, that specifically prohibits offenders who have attained either a high school diploma or a GED prior to or during their current period of incarceration from participating in another high school or GED program and, thus, are not eligible for any additional earned credit time.]

(Revised) *Credit Class IV* – This bill is estimated to result in added costs to the Department of Correction for both an offender tracking system in the next biennium and new beds for offenders, beginning in 2029 and leveling out after 2043. The total number of new beds needed will likely be 705, and the additional cost over this time period for construction and operating costs could be \$216 M in constant 2007 dollars.

Under current law, offenders are placed in one of three credit classes based on their conduct in the facilities where they are housed. Credit time refers to the number of days of incarceration that are removed from an offender's sentence for each day they are in the designated credit class.

<u>Credit Class</u>	<u>Credit Time</u>
Class I	One day credit time for each day in Class I
Class II	One day credit time for two days in Class II
Class III	No credit time

All offenders are initially placed in Credit Class I. They may be reassigned to Class II or III if they violate any rule of the penal facility, the DOC, or the community transition program.

As proposed, a new credit category, Class IV, would be established for offenders who have been convicted and sentenced for child molesting as a Class A felony if the offender is at least 21 years of age and the victim is younger than 12 years of age or murder while committing a sex crime. These offenders would serve six days in a DOC facility in order to receive a day of credit time.

The following chart represents the additional offenders who will be added and the additional prison cells that will be needed each year beginning in 2029 through 2043. Beginning in FY 2029, Class A felony offenders would remain in DOC for an additional 14 years, increasing the need for 705 new beds by 2043. In order to accommodate these offenders, facilities would need to be constructed to house 705 new beds. For purposes of this analysis, it is assumed that all construction costs would be paid in the year that the new beds are added so that no costs of debt would be incurred. Offenders sentenced for murder while committing child molesting would begin their extended stay in 2043 and not be released until 2066.

Projected Number of Beds Needed and Added Operating Costs (in \$ Millions)															
FY	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043
New Offenders	47	94	141	188	235	282	329	376	423	470	517	564	611	658	705
New Operating Costs (1)	\$1.1	\$2.1	\$3.2	\$4.3	\$5.3	\$6.4	\$7.5	\$8.5	\$9.6	\$10.7	\$11.8	\$12.8	\$13.9	\$15.0	\$16.0
New Beds Needed	47	47	47	47	47	47	47	47	47	47	47	47	47	47	47
New Capital Costs (2)	<u>\$5.9</u>	<u>\$5.9</u>	<u>\$5.9</u>	<u>\$5.9</u>	<u>\$5.9</u>	<u>\$5.9</u>	<u>\$5.9</u>	<u>\$5.9</u>	<u>\$5.9</u>	<u>\$5.9</u>	<u>\$5.9</u>	<u>\$5.9</u>	<u>\$5.9</u>	<u>\$5.9</u>	<u>\$5.9</u>
Total Costs	<u>\$7.0</u>	<u>\$8.0</u>	<u>\$9.1</u>	<u>\$10.2</u>	<u>\$11.2</u>	<u>\$12.3</u>	<u>\$13.4</u>	<u>\$14.4</u>	<u>\$15.5</u>	<u>\$16.6</u>	<u>\$17.7</u>	<u>\$18.7</u>	<u>\$19.8</u>	<u>\$20.9</u>	<u>\$21.9</u>
(1) Based on FY 2006 operating costs of \$22,743 in constant dollars.															
(2) Based on average cost of \$125,000 per bed in constant dollars.															

(Revised) *Background Information* - Based on commitments to the DOC for CY 2005, the following table shows the number of offenders who would be affected by this bill.

The number of Class A Child Molesters Older than 21 with Victim Younger than 12 - Based on a sample of 50 randomly selected Class A offenders committed to DOC in CY 2006, 73% had victims who were less than 12 years of age. Applying this percentage to the total Class A child molester offender population, an estimated 79 offenders would be affected by this bill. Of these 79 offenders, LSA assumes that 40% will re-offend within the first two years after being released and will be returned to DOC. Consequently, 60% of the offenders who would have been released and still living in their communities will remain in prison for an additional 14 years. As a result, beginning in 2029, DOC would need an additional 47 beds for these offenders each year until the population levels off in 2043.

Offenders Affected by Change in Sentencing	
Yearly Number of New Class A Child Molesters	108
Percent of Class A Offenders older than 21 with victim younger than 12*	x <u>73%</u>
No. Of offenders older than 21 with victim younger than 12	79
Percent Not Returning to Prison Due to Recidivism	<u>60%</u>
New Beds Needed for Offenders Remaining in Prison	<u>47</u>
* Average Number of Offenders between 2004 and 2006.	
** Based on a sample of 50 randomly selected Class A offenders committed to DOC in CY 2006.	

Offenders Sentenced for Murder Involving Child Molesting— There are likely to be few offenders who are convicted of murder while committing a sex crime or child molesting who do not receive either the death

penalty, life without parole, or a long determinate sentence that is effectively life without parole. For CY 2006, LSA identified *two offenders* who were sentenced for murder while committing a sex crime. One received life without parole, and the other received a term of 110 years. For purposes of this analysis, it is assumed that two offenders would be affected each year by this bill.

Projected Need for New Beds – The added population that the DOC will need to accommodate will depend on at least two factors.

(1) The rate that offenders who are released from DOC are recommitted because of new crimes. This recidivism rate assumes that a percentage of offenders will return to DOC facilities because they committed a new crime or violated a technical condition of probation, parole, or some other type of community supervision. For this estimate, a 40% recidivism rate was used. This means that 40% of these offenders will likely return to DOC within their first year of release because they commit a new crime. Since these 40% are assumed to return to prison anyway, the new beds will be for the 60% of the offenders who would not otherwise be returning within one year.

(2) The additional length of time that offenders will be incarcerated in DOC facilities because offenders will spend 83% of their time incarcerated rather than 50%.

The following table shows the year of earliest release for a five-year average of the Class A child molesters committed between CY 2002 and 2006 if they were to be released after spending 83% of their sentence incarcerated.

Offense	Offenders Committed Annually	Avg. Prison Term in Years	Year of Release If Offenders Are Sentenced in 2008			
			50% of Sentence Served		85% of Sentence Served	
			Years Spent in Prison Before Release	Earliest Year of Release	Years Spent in Prison Before Release	Earliest Year of Release
Murder	2	69	34.5	2043	57.5	2066
Child Molesting Felony A*	79	42	21	2029	35	2043

* Assumes that 60% of the 79 offenders who *would have been* released and living in their communities will remain in DOC for an additional 14 years

Effect on Earned Credit Time – Offenders who are in Credit Class I may enroll in academic and vocational education programs. Offenders who are in Credit Class I and who earn GEDs, high school diplomas, college degrees, and or obtain certificates of completion of vocational programs are eligible for reductions in incarceration time. Consequently, this bill would reduce the number of offenders who would be eligible for earned credit time reduction.

Explanation of State Revenues:

Explanation of Local Expenditures: Depending on how quickly new facilities can be built for DOC offenders, DOC may need to contract with county sheriffs to house some of the offenders who do not require highly secure cells. Currently, county sheriffs are paid approximately \$35 per day per offender.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction, Executive Directive # 05-29.

Local Agencies Affected: County sheriffs.

Information Sources: Department of Correction Data Base; IC 35-50-6-3.3.

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